



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

SOUTH CENTRAL REGIONAL OFFICE

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August 27, 2008

L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

Steven A. Dietrich
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO CYCLE SYSTEMS, INC - LYNCHBURG REGISTRATION NUMBER 30833

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and 10.1-1316, between the State Air Pollution Control Board and Cycle Systems, Inc - Lynchburg for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the Regulations for the Control and Abatement of Air Pollution.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1301 and 10.1-1184.
2. "Cycle Systems, Inc - Lynchburg" means Cycle Systems, Inc - Lynchburg, certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Facility" means the Cycle Systems, Inc - Lynchburg facility, located in Campbell County, Virginia.
6. "Order" means this document, also known as a Consent Order.

7. “O & M” means operations and maintenance.
8. “Regulations” mean the Regulations for the Control and Abatement of Air Pollution, located in the Virginia Administrative Code (“VAC”), 9 VAC 5-10-10 *et seq.*
9. “SCRO” means the South Central Regional Office of DEQ, located in Lynchburg, Virginia.
10. “Va. Code” means the Code of Virginia (1950), as amended.
11. “Virginia Air Pollution Control Law” means the laws located in the Virginia Code (“Va. Code”) (1950), as amended, Va. Code § 10.1-1300 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

1. Cycle Systems, Inc - Lynchburg owns and operates a facility in Campbell County, Virginia. At the time of the on-site inspection, the Facility was the subject of a New Source Review permit to modify and operate a recycling facility dated August 15, 2005.
2. DEQ issued a Notice of Violation on April 22, 2008. The Notice of Violation addressed the exceedance of operating hours of the diesel IC engine rated at 3,900 bhp and the total throughput of material through the metal shredder as reported by the Facility on March 12, 2008. Both exceedances were reported to have occurred during the month of December 2007 based on a 12-month rolling average. The Notice of Violation also identified exceedances of emission limits on the basis that the exceedance of operating limits is credible evidence of the exceedance of emission limits for the same time period.
3. An enforcement meeting was held with Cycle Systems, Inc - Lynchburg on May 1, 2008. During the meeting, the Facility reported that previous operating hours and throughput reports were inaccurate. It was established that the Facility did not exceed operating hours of the diesel IC engine rated at 3,900 bhp or total throughput of material through the metal shredder during the month of December 2007. It was discovered that the operating hours of the diesel IC engine rated at 3,900 bhp were exceeded during the months of January 2008, February 2008, and March 2008.
4. The violations discussed during the enforcement meeting held on May 1, 2008, include:

Exceedance of the hourly operating limits of the diesel IC engine rated at 3,900 bhp during January 2008, February 2008, and March 2008.
5. Cycle Systems, Inc - Lynchburg has corrected many of the violations cited in the Notice of Violation. The Facility submitted a permit application to modify the New Source Review permit. The DEQ issued a modified New Source Review permit on May 27, 2008, which does not limit operating hours of the diesel IC engine rated at 3,900 bhp but controls the emissions by limiting fuel throughput depending on fuel type consumed.

6. Cycle Systems, Inc - Lynchburg is working with DEQ staff to install and implement a programmable process controller (PPC) which is designed to gather data related to engine operation, fuel delivery, fuel type, and fuel consumption in real-time. The PPC is designed to be able to obtain data and generate reports in real-time and produce warnings when operating totals are approaching permit limits.
7. Cycle Systems, Inc – Lynchburg shall submit a written final report on the PPC upon installation but no later than October 1, 2008. The final report shall explain, at minimum, how the implementation of the PPC meets permitted recordkeeping requirements and improves recordkeeping accuracy.
8. In order to resolve these violations, Cycle Systems, Inc – Lynchburg has agreed to pay a civil charge, as required in Section D of this Order, and to submit the final report, as required by this Section.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §§ 10.1-1307 D, 10.1-1309, 10.1-1184, 10.1-1316 C., and 10.1-1186.2 orders Cycle Systems, Inc - Lynchburg, and Cycle Systems, Inc - Lynchburg voluntarily agrees, to pay a civil charge of \$2,925.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia," delivered to:

Receipts Control
Department of Environmental Quality
PO Box 1104
Richmond, Virginia 23218

Cycle Systems, Inc - Lynchburg shall include its Federal Identification Number with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this paragraph.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Cycle Systems, Inc - Lynchburg, for good cause shown by Cycle Systems, Inc - Lynchburg, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Cycle Systems, Inc - Lynchburg by DEQ on April 22, 2008. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be

authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, Cycle Systems, Inc - Lynchburg admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Cycle Systems, Inc - Lynchburg consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Cycle Systems, Inc - Lynchburg declares it has received fair and due process under the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Cycle Systems, Inc - Lynchburg to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Cycle Systems, Inc - Lynchburg shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Cycle Systems, Inc - Lynchburg shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Cycle Systems, Inc - Lynchburg shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Cycle Systems, Inc - Lynchburg. Notwithstanding the foregoing, Cycle Systems, Inc - Lynchburg agrees to be bound by any compliance date, which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Cycle Systems, Inc - Lynchburg. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Cycle Systems, Inc - Lynchburg, from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below Cycle Systems, Inc - Lynchburg voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 10th day of September, 2008.

Dr. Steven A. Dietrich
Steven A. Dietrich, Regional Director
Department of Environmental Quality

Cycle Systems, Inc - Lynchburg voluntarily agrees to the issuance of this Order.

By: [Signature]
Date: _____

Commonwealth of Virginia, City/County of Roanoke

The foregoing document was signed and acknowledged before me this 8th day of

September, 2008, by Lendell Shields, who is
(name)

EH+SM of Cycle Systems, Inc - Lynchburg on behalf of the
Corporation.
(title)

Deborah M Smith # 257714
Notary Public

My commission expires: August 31, 2009.